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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A./TXX. No.360/1992

Decided on: 19/12/96

M.As. No. 2308 & 2332 of 1996

Shri J.C. ShoriApplicant(s)

(By ~~SMXX~~ In Person Advocate)

Versus

U.O.I. & OthersRespondent(s)

(By Shri R.L. Dhawan Advocate)


CORAM:

THE HON'BLE SHRI JUSTICE CHETTUR SANKARAN NAIR, CHAIRMAN

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

1. Whether to be referred to the Reporter or not? y/s

2. Whether to be circulated to the other Benches of the Tribunal?


(K. MUTHUKUMAR)
MEMBER (A)

(15)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 360 of 1992

M.As. No.2308&2332 of 1996

New Delhi this the 19th day of December, 1996

HON'BLE MR. JUSTICE CHETTUR SANKARAN NAIR, CHAIRMAN

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri J.C. Shori

S/o Late Pt. Ram Pratap

R/o RZ-54, South Extension Part-I,

Uttam Nagar,

New Delhi-110 059.

..Applicant

In person

Versus

1. Union of India through
Secretary,
Ministry of Railways,
New Delhi.
 2. Senior Divisional Accounts Officer,
Northern Railways,
Allahabad (U.P).
 3. Senior Divisional Accounts Officer,
Moradabad (U.P.).
 4. General Manager,
Northern Railways,
Headquarters Office,
Baroda House,
New Delhi
 5. Financial Advisor and
Chief Accounts Officer,
Northern Railway,
Baroda House,
New Delhi.
- ...Respondents

By Advocate Shri R.L. Dhawan

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

Heard the applicant and the learned counsel

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for the respondents.

2. This application is directed against order dated 9.5.1991, Annexure-F under which the representation of the applicant for granting him special pay allowed under the incentive scheme for Appendix III-A Examination, qualified staff who have passed the said examination before 31.12.72. For the purpose of understanding the grievance of the applicant, a short recital of the facts would be appropriate.

3. The respondents have been allowing certain incentive scheme for the accounts staff who have passed the Appendix III-A Examination but have not been promoted to the next higher grade of Section Officer. This scheme has been in vogue since 1965. Under this scheme, the applicant who had passed the Appendix III-A examination was allowed the enhanced rate of increment of Rs.15/- as against the normal rate of increment of Rs.8/- applicable to his scale of pay. He was granted this benefit of enhanced rate of increment with effect from 23.2.1965 upto 31.12.1972. He was also provided the stagnation increment from 1.4.1972 raising his rate of pay to Rs.315/-. But for the grant of this enhanced rate of increment under the scheme his pay would have been raised by Rs.8/- from time to time and would have been Rs.256/- on

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1.4.1970, Rs.264/- on 1.4.1971 and Rs.272/- on 1.4.1972. On the implementation of the Third Pay Commission's recommendation, the revised pay of scales were introduced. The respondents modified their incentive scheme and by their order dated 29.10.1976 in supersession of the then existing ^{increment} scheme, they substituted the old incentive by a new qualification/special pay. Under this scheme, a special pay of Rs.20/- per month was to be granted to Clerks/Sub-heads/Stock Verifiers/Typists/Stenographers of the Accounts Department on passing Appendix III-A Examination with effect from 1.1.1973. Subsequently by the order dated 26.4.1980, the rate of special pay was also enhanced to Rs.35/- w.e.f. 22.9.1979 in respect of the staff who qualify in the Appendix III-A examination from the second years onwards on passing the Appendix III-A examination, retaining the rate of special pay of Rs.20/- in respect of such of those staff in the first year after passing the Appendix III-A examination. It was, however, provided in the aforesaid order dated 29.10.1976 that in respect of staff who passed the Appendix III-A examination prior to 1.1.1973 but had not been promoted as Section Officer or Inspector of Station Accounts or Inspector of Stores Accounts on that day would, however, get a special pay of Rs.20/- or Rs.35/- (as the case may be) less the

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benefit they had got through the higher incentive of increment under the old scheme during the whole period then they had been waiting for promotion upto 31.12.1972. It was also provided that if the said difference is nil or in the negative, the person concerned would not get any special pay with effect from 1.1.1973. As the applicant had passed the examination on 23.2.1965 itself, he had been allowed the incentive increments from time to time and, therefore, the benefit of higher increment which he had drawn was more than Rs.20/- and, therefore, he would not be eligible for grant of any special pay from 1.1.1973. The applicant challenges this position on the ground that the respondents' letter dated 29.10.1976 was discriminatory in nature inasmuch as they have been given retrospective effect from adjustment of the higher rate of increment subject to the limit of Rs.20/-. He also alleges that the respondents have not implemented the recommendation of the Third Pay Commission and they have denied the benefit given to the staff by this order.

4. The respondents, however, contend that the applicant had drawn Rs.44/- as enhanced rate of increment upto 1.4.1972 and he had also drawn advance increments due to stagnation at the maximum. Consequent on the Pay Commission's recommendations, the scheme for inflated rate of increment was reviewed and the Railway Board dispensed with the system and replaced it by a special pay of Rs.20/- w.e.f. 1.1.1973 (and Rs.35/- w.e.f. 22.9.79

for the second year). Besides this, the applicant was promoted to the next higher grade of Section Officer (Accounts) w.e.f. 23.9.1976, from which date he would not be eligible for any special pay as the scheme was intended to benefit such of those staff who have qualified in the Appendix III-A examination but were waiting for promotion to the next higher grade. Even before the said promotion, the applicant had also drawn the higher rate of increment more than Rs.35/- and, therefore, would not be eligible for any benefit under the revised scheme.

5. We have considered the matter at length and have also perused the record.

6. We find that the scheme of incentive of special pay introduced by the letter dated 29.10.76 cannot be considered to be discriminatory. This scheme supersedes the earlier scheme and was intended to benefit such of those staff qualifying in the Appendix III-A examination with effect from 1.1.1973 by grant of special pay of Rs.20/- for the first year and Rs.35/- (w.e.f. 22.9.1979) for the second year of passing the said examination. The applicant had already derived the benefit of higher rate of increments which have been allowed to him under the scheme then in force. Under the present scheme,

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it was not intended that the special pay should be granted over and above the higher incentive increment which he has drawn prior to 1.1.1973. On the other hand, it was provided as a matter of policy that only in respect of such of those persons who have qualified in the Appendix III-A examination but had not been promoted, would get a special pay equal to Rs.20/- less the benefit in higher rate of increment already derived under the old scheme upto 31.12.1972 and in case they had already drawn a higher rate of increment, i.e., Rs.20/- or Rs.35/-, as the case may be, they would not be entitled to any special pay. The object of the whole ^{scheme} was to limit the grant of incentive upto Rs.20/-/Rs.35 only. In such matters of policy the Courts or Tribunals cannot interfere. Therefore, the applicant's claim for grant of Rs.20/Rs.35 as special pay over and above the pay which was fixed consequent on the revision of the scales of pay, is misconceived. Further it had also been provided that the rate of incentive increments which the staff was allowed under the old Scheme would also taken into account in fixing the pay of these persons in the revised scale and the applicant's pay was also fixed accordingly.

7. The respondents have also referred to the decision of the Tribunal in OA 2405 of 1991 on an identical question.

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8. In the conspectus of the above,
we find no merit in this application. The
application is accordingly dismissed. There shall
be no order as to costs.

Dated, the day of December, 1996.


(K. MUTHUKUMAR)
MEMBER (A)


(CHETTUR SANKARAN NAIR, J.)
CHAIRMAN

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